

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-140V

Filed: June 25, 2015

Unpublished

VIRGINIA IVES,

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Petitioner,

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

Damages Decision Based on Proffer;
Influenza or Flu Vaccine;
Shoulder Injury Related to
Vaccine Administration ["SIRVA"];
Special Processing Unit ["SPU"]

*

Respondent.

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*Jeffrey S. Pop, Esq., Jeffrey S. Pop, Attorney at Law, Beverly Hills, CA, for petitioner.
Christine M. Becer, Esq., U.S. Department of Justice, Washington, DC for respondent.*

DECISION AWARDING DAMAGES¹

Vowell, Chief Special Master:

On February 11, 2015, Virginia Ives filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² [the "Vaccine Act" or "Program"]. Petitioner alleges that she suffered a shoulder injury caused by the influenza vaccine she received on September 23, 2013. Petition at 1. Petitioner also alleges that her injuries lasted more than six months and that she continues to suffer the residual effects of her injury. *Id.*, ¶ 18. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 16, 2015, I issued a ruling on entitlement, finding petitioner entitled to compensation for her shoulder injury related to vaccine administration ["SIRVA"]. On June 23, 2015, respondent filed a proffer on award of compensation ["Proffer"] indicating petitioner should be awarded \$69,517.00 which "represents all elements of

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)." Proffer at 1.

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$69,517.00 in the form of a check payable to petitioner, Virginia Ives.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

s/Denise K. Vowell

Denise K. Vowell

Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

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VIRGINIA IVES,)
)
Petitioner,)
)
v.) No. 15-140V
) Chief Special Master Vowell
) ECF
SECRETARY OF HEALTH AND)
HUMAN SERVICES,)
)
Respondent.)
)

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$68,000.00 for pain and suffering and \$1,517.00 for unreimbursed medical expenses, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$69,517.00 in the form of a check payable to petitioner. Petitioner agrees.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

Respectfully submitted,

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RUPA BHATTACHARYYA
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Torts Branch, Civil Division

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s/Christine Mary Becer
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Date: June 23, 2015